

BOARD OF ZONING APPEALS

MINUTES

6:30 PM

May 21, 2014

City Council Chambers

MEMBERS PRESENT: Bernie Bossio, Bill Burton, Leanne Cardoso, and George Papandreas

MEMBERS ABSENT: Jim Shaffer

STAFF: Christopher Fletcher, AICP

I. **CALL TO ORDER AND ROLL CALL:** Bossio called the meeting to order at 6:30 PM and read the standard explanation of the how the Board conducts business and rules for public comments.

II. **MATTERS OF BUSINESS:**

A. **Minutes for the April 30, 2014 Hearing:** Burton moved to approve as presented; seconded by Papandreas. Motion carried unanimously.

III. **OLD BUSINESS:**

A. **V14-04 / Morgantown Dental Group / 142 High Street:** Request by Joshua Dolin, on behalf of Morgantown Dental Group, for variance relief from Article 1369 as it relates to signage at 142 High Street; Tax Map 28A, Parcel 47; B-4, General Business District. **TABLED**

Papandreas moved to remove V14-04 from the table; seconded by Cardoso. Motion carried unanimously.

Fletcher read the Staff Report.

Bossio recognized the petitioner, Dr. Josh Dolin of 142 High Street, who stated he took the suggestions from the last meeting and also worked with the Planner to develop the proposed sign.

Bossio stated he did not recall making any recommendations or suggestions on the previous sign. Dolin noted that he forwarded the initial Staff recommendations and suggestions to the sign company to help develop the proposed design.

Dolin stated it is important for the office to have a sign as it helps new clients locate the building. In addition, there are a lot of dentists in the area and advertising has become important for the success of their business.

Bossio expressed the proposed sign is better but still needs to be decreased in size.

Dolin said he is open to any suggestions.

Burton felt that decreasing the sign to 30 inch X 72 inch would keep it in proportion and remain attractive. In addition, he did not feel lights were needed. Dolin stated he is not dead set on having lighting and would be willing to omit that in the plan.

Fletcher noted that the lighting of suspended signs are not permitted in the B-4 district and that allowing the suspended sign to be external illuminated would have to be a part of the variance.

Fletcher stated that a 30 X 72 sign would total 15 square feet which would require a 9 square foot variance as opposed to a 15 square foot variance.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Bossio declared the public hearing closed.

Fletcher read the staff recommendations.

Papandreas stated he liked the sign as proposed but would like to see it mounted to the side of building as it is not a retail business.

Bossio noted he isn't opposed to the lighting and the petitioner's business is in a commercial area and he should be allowed to advertise for his business.

Cardoso expressed she likes the aesthetics of a suspended sign in that area and his dental office should have the same rights as any other business regarding advertising.

Cardoso asked if the proposed sign would impede upon the business located in the same building. Fletcher referred to the Staff Report and noted that the adjoining business previously had a wall sign.

Bossio introduced Dolin to the podium. Dolin stated the adjoining business does lease from his office and they had mentioned they would like to do a suspended sign in the future as well. He asked how high the sign would need to be hung as he would not want to impede on their business.

Papandreas made a motion to find in the positive for the all the Findings of Facts as amended by Staff; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The petitioner purports that new customers of the Morgantown Dental Group cannot locate the petitioner's building due to the lack of visibility of existing wall signage.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There appears to be several suspended signs within the B-4 District that exceed the related maximum area standard. Additionally, variance relief from the maximum area standard for suspended signs was granted for "Joe Mamas" (6.5 square foot variance) and for "Panera Bread" (2.13 square foot variance)

Finding of Fact No. 3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The suspended sign for which variance relief is granted herein appears to be consistent with nearby City banner signs, which do not appear to appear to be a detriment neighboring properties and improvements.

Finding of Fact No. 4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The use of the premises will remain unchanged. The petitioner noted that the Morgantown Dental Group has been a fixture downtown for over 80 years and the sign for which variance relief is granted herein should enhance the rich history of downtown Morgantown. The nature of the variance granted herein cannot contribute to or mitigate existing traffic congestion along neighboring streets.

Papandreas moved to approve a nine (9) square foot variance from the maximum suspended sign area standard and to allow the sign to be externally illuminated under Case No. V14-04 with Staff recommended conditions; seconded by Burton. Motion carried unanimously.

Bossio reminded Dr. Dolin that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

IV. NEW BUSINESS:

- A. CU14-05 / Brenda Meneely / 1210 Charles Avenue:** Request by Brenda Meneely, for conditional use approval of a "Class 2 Home Occupation" at 1210 Charles Avenue; Tax Map 21, Parcel 146; R-1A, Single-Family Residential.

Fletcher read the Staff Report.

Bossio recognized the petitioner, Brenda Meneely of 1210 Charles Avenue, who concurred with the Staff Report.

Cardoso asked how many vehicles were at the residence and how many spaces they occupy. Meneely stated she has one car and would have two available spaces for clients.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Bossio declared the public hearing closed.

Fletcher read the staff recommendations.

Burton made a motion to find in the positive for the all the Findings of Facts as revised by Staff; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The home occupation will be compatible with residential uses of the dwelling, in that:

If a student visits the subject residence, it will not be more than one vehicle at a time, which is no different than if any other property owner were to have a visitor at their home. A vehicle, if any, would be non-commercial and not change the quality nor nature of the residential community.

Finding of Fact No. 2 – The home occupation will not change the residential character of the dwelling, in that:

It will not require any commercial trucks, shipping of goods, increased traffic flow, road obstruction, or additional construction/improvements to the land or structure.

Finding of Fact No. 3 – The home occupation will not detract from the residential character of the neighborhood, in that:

Teaching piano lessons inside the home will shield the community from any activity involving the applicant's business. There will be no signs, advertisement in the yard, on-street parking, or otherwise commercial activity beyond the single visitor for the purpose of piano lessons.

Finding of Fact No. 4 – Congestion in the streets will not be increased, in that:

The subject residence has a driveway that can fit at least three cars at a time. The piano lessons will be taught one-on-one, thus there will be excess driveway parking. Additionally, one visitor at a time will not increase the street traffic any more than if the residence were to have an occasional visitor.

Papandreas moved to approve the Class 2 Home Occupation under Case No. CU14-05 with Staff recommended conditions; seconded by Cardoso. Motion carried unanimously.

Bossio reminded Ms. Meneely that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- B. V14-18 / Joseph Pride / 883 Vandalia Road:** Request by Joseph Pride for variance relief from Article 1331.08 as it relates to setbacks for accessory structures at 883 Vandalia Road; Tax Map 34, Parcel 19; R-1, Single Family Residential District.

Fletcher read the Staff Report and noted an email in favor of the proposed variance was received from Mr. Dennis Bidwell.

Bossio recognized the petitioner, Joseph Pride of 883 Vandalia Road, who stated that prior to beginning the project he had contacted the Code Enforcement Division to ask for direction in completing the project and has no problem following the Staff recommendations.

There being no comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request.

Bossio recognized Michael Belmear of 892 Vandalia Road who stated he is in favor of the proposed variance. The pool is used by family members and neighbors and provides enjoyment for all. He is happy with the safety precautions that have been taking and does not feel the building and architecture would hurt the neighborhood yet rather enhance the environment.

There being no further public comments, Bossio declared the public hearing closed.

Fletcher read the staff recommendations.

Papandreas made a motion to find in the positive for the all the Findings of Facts as revised by Staff; seconded by Burton. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The deck is built up to within one and a half foot of property line, which is a retaining wall. The existing location of the fire pit and the mechanical equipment for the in-ground pool appear to hinder placing the proposed gazebo accessory structure at least five (5) feet from the rear property line given structural support elements of the gazebo's design.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

Variance is necessary because of existing pull pump house and fire pit.

Finding of Fact No. 3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The adjoining house to the rear of the petitioner's property appears to be approximately thirty-five (35) feet from the proposed location of the accessory gazebo structure. The space over which the gazebo is to be located has been used as a deck adjoining the in-ground pool for a number of years. The proposed gazebo is simply covering existing utilized deck space at the southwest corner of the petitioner's rear yard, which should not alter the context of how the petitioner's rear yard space currently performs and relates to adjoining properties and improvements.

Finding of Fact No. 4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The nature of the variance relief cannot contribute to or mitigate existing traffic patterns on neighboring streets. The proposed gazebo should enhance market value of the petitioner's property and neighboring properties as is customary to similar home improvements. The proposed gazebo should not alter the context of the existing land utilization of the petitioner's rear yard in terms of how it currently performs and relates to adjoining properties.

Papandreas moved to approve a two-and-one-half (2.5) variance from the rear setback standard for accessory structure under Case No. V14-18 as requested; seconded by Burton. Motion carried unanimously.

Bossio reminded Mr. Pride that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- C. V14-19 through V14-21 / Kroger Fueling Station / 3100 University Avenue:**
Request by Kurt Wallenborn, on behalf of Kroger Limited Partnership 1, for approvals of three (3) variance petitions relating to a proposed "Gas Station Mini-Mart" development at 3100 University Avenue; Tax Map 7, Parcel 260; B-2, Service Business District.

Fletcher explained the only action needed by the Board at this time is for approval of V14-19 and V14-21. Fletcher read the Staff Report.

Bossio recognized the petitioner's representative, Kurt Wallenborn of the Kroger Company who explained the site is being developed as a Kroger Fuel Center. The site is small and variances would help to ensure a wonderful site for the community.

Bossio asked Mr. Wallenborn if he had the authority to work with the Board on developing the property. Wallenborn confirmed.

Bossio noted that a roundabout is being considered by the West Virginia Division of Highways to be developed at the University Avenue and Collins Ferry Road intersection in 2015.

Bossio stated that Suncrest is a unique residential district with many single-family homes. The building proposed is plain and feels it should include unique architectural characteristics that conform to the surrounding environment. He referred to the Sheetz project and noted the HVAC on the roof should be covered or redesigned as the flat roof does not fit the neighborhood.

Wallenborn explained they have already invested \$2.8 million on the site and he would not get a return if changes to the roof and stone had to be made. It would be difficult to proceed given the extra costs that would come with the suggested changes.

Bossio asked what the cost increase would be if the changes were made. Wallenborn guessed that it would cost around \$50,000.

Ali Daughtry, of Robertson Loia Roof Architects and Engineers, explained that the changes would include significant cost increases and showed the Board an illustration of Kroger's performance standards. Daughtry suggested adding earth tone colors to help subdue the building and showed an example of a similar site to the Board members.

Bossio reiterated that the Board wants to make sure proposed buildings are fitting within the surrounding environment. The extra cost of the hipped roof and brick used at the Kroger Suncrest Towne Centre location should not cost more than \$50,000 and asked if they would be willing to talk with the Planner to make changes to the existing plan.

Burton asked if there is a way to find out if the roundabout is going to happen in the future.

Fletcher noted that the developers have met with the Department of Highways and are aware it is a future possibility.

There being no further comments or questions by the Board, Bossio asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Bossio declared the public hearing closed.

Fletcher read the staff recommendations.

Papandreas noted the location is the gateway to the neighborhood and deserves more than the proposed elevation presented. The area is heavily traveled and the proposed elevations are highly industrial looking that would not look appropriate in that neighborhood.

Burton agreed and noted the location is a focal point for the area.

Cardoso agreed and stated the building needs to look more residential and maintain the property value of that area.

Bossio stated they are all in favor of a change at that location but the architectural design improvements are needed.

Burton asked if the back of the building could face the bank and the front could face the bank. Fletcher stated that one of the benefits of this layout is the driveway entrance is as far away from the intersection as possible and promotes best access management practices.

Daughtry explained the reason the plan includes the building facing the back is due to the triangular shaped property. Their most important priority is getting their customers to a fuel pump safely and Kroger adheres to the minimum standards of allowing room beside cars for access while at the pump. The biggest area needed on the property is for around the canopy.

Papandreas understood why the building would be positioned as presented, but has problems with Findings of Fact 3 and 4 as it will affect property values. He would rather table the petition to allow for changes, rather than turn it down as he would like to see the area developed.

Bossio agreed and expressed that he would like more time to review and allow the petitioner to explore other options.

Papandreas suggested that the kiosk building be moved in toward the gas pumps, which would eliminate the need for V14-21 and would free up space within the triangle for additional landscaping. Fletcher noted that parking would be lost with that change.

Papandreas expressed the need to explore other options with this property as the site is too small for the size of project being proposed. He noted there is a bigger issue with the parking than the three spaces being requested and the back of the building facing the entrance is an insult to the neighborhood.

Bossio agreed and feels more landscaping needs to be done to the back of the building to make it more presentable to the neighborhood and suggested a clock tower.

Cardoso agreed and noted something can be done to the back of the building to make it more visually appealing to the neighborhood.

Papandreas expressed that the neighborhood deserves more than the minimum design attempt being presented.

Bossio stated he would like to see the project move forward but would like to explore possibilities of alternate plans that would gain back the parking and provide options for landscaping to compliment the building.

Bossio invited the petitioner to provide comments or opinions on the Boards discussion. Wallenborn asked if it would satisfy concerns if they agreed to upgrade the kiosk to look like a building or is the problem a bigger picture of the whole site.

Bossio stated the problem is the building and its location and has nothing to do with the kiosk and canopy layout of the site. He suggested the City Planner come up with suggestions to

accommodate the neighborhood and address the variances requested. He also suggested softening the colors and to make the building more visually appealing.

Wallenborn noted he is willing to address the roof line and covering the HVAC system and will work with the Planner to make changes.

Papandreas stated that changing the roofline will help and the back of the building needs to be spruced up way more than just two windows. New design features are needed to conform to the neighborhood.

Fletcher suggested taking a ten-minute recess so that he could speak with the petitioners.

A motion was made and seconded to take a ten-minute recess. [NOTE: Board members making the motions were not recognized from the video record.]

After approximately ten minutes, a motion was made and seconded to reconvene. [NOTE: Board members making the motions were not recognized from the video record.]

After returning from the ten-minute recess, Fletcher stated that alternative suggestions were discussed with the petitioner during the recess and were informally presented to the Board. The petitioner stated they need to speak with the architects to be able to confirm changes.

Bossio asked if a special meeting could be held to avoid waiting for the June meeting. Fletcher confirmed.

Papandreas motioned to table V14-19 and V14-21; seconded by Burton. Motion carried unanimously.

Bossio explained to the petitioner that the Board is willing to convene a special meeting and to contact with the City Planner to discuss alternatives to the proposed planned.

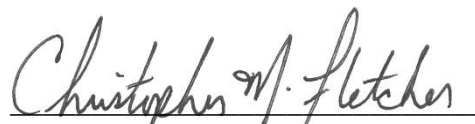
V. ANNOUNCEMENTS: None.

VI. ADJOURNMENT: 8:15 PM

MINUTES APPROVED:

June 18, 2014

BOARD SECRETARY:


Christopher M. Fletcher, AICP